

Tuesday – September 23, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 15-OCTOBER 15, 2014, AS "HISPANIC HERITAGE MONTH"

Mayor Manheimer read the proclamation proclaiming September 15-October 15, 2014, as "Hispanic Heritage Month" in the City of Asheville. She presented the proclamation to Ms. Esther Chavez, representing Asheville Latin Americans for Advancement Society; and Ms. Norma Brown, representing Children First/Communities in Schools, who briefed the Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item D was removed from consideration.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 9, 2014

B. RESOLUTION NO. 14-212 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO (1) ADD A WORKSESSION ON AFFORDABLE HOUSING/COMMUNITY DEVELOPMENT ON OCTOBER 14, 2014, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM IN CITY HALL; AND (2) CANCEL THE SEPTEMBER 30, 2014, COMMUNITY MEETING

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C. RESOLUTION NO. 14-213 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A CONSERVATION EASEMENT AT 61 TERMINAL DRIVE TO THE CAROLINA MOUNTAIN LAND CONSERVANCY

Summary: The consideration of a resolution authorizing the City Manager to convey a conservation easement on 8.3 acres of real property along the French Broad River located at the Asheville Regional Airport to the Carolina Mountain Land Conservancy (CMLC) for conservation purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey any interest in real property at this location, the City of Asheville must execute the deeds or easements of conveyance, and the FAA—in consultation with the Airport--must "release" the

property from FAA use restrictions. Because the property was acquired with FAA financial assistance, and has been held for use by the Airport, all financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property or must be utilized for airport purposes in the same proportion as the initial contribution to the purchase price.

Airport Authority staff has been working with the Carolina Mountain Land Conservancy ("CMLC") to establish conservation easements on airport property along the French Broad River. The airport property that is being recommended for the conservation easement is within the flood plain/flood way of the French Broad River and therefore would have limited development possibilities in the future. The establishment of the conservation easements on airport property would help to tie together other property along the French Broad River to enable the development of a future trail system.

Carolina Mountain Land Conservancy proposes to purchase conservation easements on approximately 8.3 acres of airport property on the French Broad River. In accordance with FAA regulations, the easements must be purchased for fair market value. A grant in the amount of \$107,000 has been awarded through the NC Clean Water Management Trust Fund to the CMLC for the acquisition of conservation easements on Airport property. Prior to acquisition, the NC State Property Office must approve an appraised value of the proposed easements.

Pro:

- This conservation easement will protect public lands with the floodway and support a future trail system along the French Broad River.

Con:

- None.

There is no direct financial impact to the City. All financial proceeds associated with the conservation easement are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property and/or must be utilized for airport purposes.

Economic Development staff recommends adoption of the resolution to convey an 8.3 acre conservation easement at the Asheville Regional Airport to the Caroline Mountain Land Conservancy.

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- D. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH BLAKLEY CONSTRUCTION SERVICES LLC FOR THE NORTH FORK WATER TREATMENT PLANT DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT**
- E. ORDINANCE NO. 4343 - BUDGET AMENDMENT TO ACCEPT THE 2013 HIGH INTENSITY DRUG TRAFFIC AREA (HIDTA) GRANT FOR THE ASHEVILLE AREA HIDTA TASK FORCE**

Summary: The consideration of a budget amendment, in the amount of \$20,000, from the 2013 High Intensity Drug Traffic Area (HIDTA) grant, for which the Asheville Police Department will serve as the fiduciary for investigative special purposes for the Asheville Area HIDTA Task Force.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The original designation of five HIDTA sites in 1990 has expanded into more than thirty areas around the country. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. The Asheville HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriffs Office, Henderson County Sheriffs Office and McDowell County Sheriffs Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The Asheville HIDTA has received \$20,000 funding for investigative special purpose funds for which the Asheville Police Department will serve as the fiduciary.

Some recent successes of the task force, including some multi-state cases are; 1) Seizure the of 184 morphine and 484 Hydrocodone Tablets charging a subject or 5 counts of trafficking Opium; 2) Seizure of 1400 pounds of marijuana, 4 pounds of methamphetamine involving 11 individuals; and 3) Additional ongoing cases involving large distributors of crack cocaine involving gun and gang activities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City staff recommends City Council to adopt the budget amendment to accept the HIDTA 2013 grant funds.

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F. ORDINANCE NO. 4344 - BUDGET AMENDMENT TO ACCEPT THE 2014 HIGH INTENSITY DRUG TRAFFIC AREA (HIDTA) GRANT FOR THE ASHEVILLE AREA HIDTA TASK FORCE

Summary: The consideration of a budget amendment, in the amount of \$45,000, from the 2014 High Intensity Drug Traffic Area (HIDTA) grant, for which the Asheville Police Department will serve as the fiduciary for investigate special purposes for the Asheville Area HIDTA Task Force.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The original designation of five HIDTA sites in 1990 has expanded into more than thirty areas around the country. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. The Asheville HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriffs Office, Henderson County Sheriffs Office and McDowell County Sheriffs Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The Asheville HIDTA has received \$45,000 funding for investigative special purpose funds for which the Asheville Police Department will serve as the fiduciary.

Some recent successes of the task force, including some multi-state cases are; 1) Seizure the of 184 morphine and 484 Hydrocodone Tablets charging a subject or 5 counts of trafficking Opium; 2) Seizure of 1400 pounds of marijuana, 4 pounds of methamphetamine involving 11 individuals; and 3) Additional ongoing cases involving large distributors of crack cocaine involving gun and gang activities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City staff recommends City Council adopt the budget amendment to accept the HIDTA 2014 grant funds.

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G. RESOLUTION NO. 14-215 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS THROUGH THE US DEPARTMENT OF JUSTICE FOR THE 2014 BALLISTIC VEST PARTNERSHIP PROGRAM

ORDINANCE NO. 4345 - BUDGET AMENDMENT FOR THE 2013 BALLISTIC VEST PARTNERSHIP PROGRAM

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$23,778.51; and (2) a budget amendment, in the amount of \$47,557.02, from US Department of Justice Ballistic Vest Partnership (BVP) funds and previously approved City General Fund money, to establish a project budget in the Special Revenue Fund for the 2014 BVP Program.

The City of Asheville Police Department currently participates in the US Department of Justice BVP program. The funds allocated through this program are designed to offset departmental cost associated with purchasing ballistic vests. The City of Asheville has been awarded \$23,778.51 through this program, which requires the City to match this amount dollar-for-dollar. Expenditures for this program will be recorded in this City's Special Revenue Fund. The budget amendment is necessary to authorize the full project budget amount of \$47,557.02 in this fund. The City's match of \$23,778.51 will come from the Police Department's adopted FY 2014-15 operating budget. The funding will enable the purchase of 76 bulletproof vests over the next 2 years.

Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment

Con:

- None

As noted above, this grant requires a match of \$23,778.51, which will come from the Police Department's existing General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept this grant award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of \$23,778.51; and 2) a budget amendment, in the amount of \$47,557.02, from US Department of Justice BVP funds and previously approved City General Fund money, to establish a project budget in the Special Revenue Fund for the 2014 BVP Program.

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H. ORDINANCE NO. 4346 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF N.C. STATE DRUG SEIZURE FUNDS TO PURCHASE URINE DRUG SCREENS/LAB TESTING RELATED TO THE BUNCOMBE COUNTY DWI TREATMENT COURT

Summary: The consideration of a budget amendment, in the amount of \$5,000, to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

This amendment will authorize the use of \$5,000 in North Carolina State drug seizure funding for the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

Pro:

- North Carolina State drug seizure revenue used to fund Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the APD allowing us to better equip our employees and provide safety measures to protect the public. There is no impact to the General Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment in the amount of \$5,000 authorizing the use of North Carolina State Drug Seizure Funds to fund the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

ORDINANCE BOOK NO. 29 - PAGE 236

I. RESOLUTION NO. 14-216 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MAIL MANAGEMENT SERVICES, LLC, TO PROVIDE MAIL SERVICES TO THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter into a three year contract with Mail Management Services to provide mail services for the City of Asheville.

In the Fiscal Year 2014/ 2015 adopted budget, a total of \$393,000 was appropriated across department accounts to provide for citywide postage and mail services.

The City provides municipal services to more than 60,000 accounts which primarily encompasses the following: water meters, business license, permits and general correspondence to residents and visitors. The customer base is divided into multiple billing cycles and by general information correspondence each month. All water, sewer and storm water accounts are billed monthly.

In 2009 the City issued a Request for Proposals (RFP) to contract with a vendor to provide mail services. The City selected and contracted with Mail Management Services, LLC for a period of three years and exercised the option to renew for two successive one year periods. In 2014 the City issued a new RFP. Based upon a review of the proposals by a staff committee, the committee recommends selection of Mail Management Services, LLC. The contract is for a period of three years with an option to renew for two successive one year periods upon agreement between the City and Mail Management.

While the postage and service costs will vary from year to year based on postage rate, volume, type of service provided, due to the trends and advancements in communication technology, the annual cost is not expected to exceed \$393,000. The multi-year contract is subject to the annual appropriation process. If the adopted budget does not include an appropriation for the service, the City shall have the right to terminate the contract.

Pros:

- Provide more predictable pricing for mail services
- Lower costs for mailing city bills and correspondence

Con:

- None identified

\$393,000 was approved in the City's fiscal year 2014-15 budget for mail services in both the General and Enterprise Funds.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a three year contract with Mail Management Services, LLC ., with an option to renew for two successive one year periods, to provide mail services to the City for the amount of the approved budget. Each fiscal year contract shall be subject to funding appropriation approval by City Council.

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J. ORDINANCE NO. 4347 - BUDGET AMENDMENT FOR NEW ENERGY EFFICIENT LIGHTING AT SHILOH AND STEPHENS-LEE COMMUNITY CENTERS

Summary: The consideration of a budget amendment from General Fund assigned fund balance to establish a FY15 budget in the amount of \$48,500 for contracting the purchase and installation of energy efficient lighting at Shiloh and Stephens-Lee Community Centers through participation in the Duke Energy Progress (DEP) Small Business Energy Savers (SBES) Program.

In April 2011 City Council approved a resolution to set the annual municipal carbon footprint reduction goal at 4%. The mechanism Council approved to fund this initiative is the Green Capital Improvement Program (Green CIP). Through the Green CIP, the City borrowed money to fund the installation of LED streetlights and is now using the operational energy savings from that project to pay off the debt and to fund other energy saving projects. This lighting project would be paid for out of those operational energy savings.

In November of 2013, Council approved Resolution No. 13-236, authorizing the City to participate in the DEP SBES program.

At the Linwood Crump Shiloh Complex, the SBES program will replace 126 existing T12 light fixtures throughout the complex with high efficiency, electronically ballasted T8 lighting. In the gymnasiums of both the Shiloh Complex and the Stephens-Lee Center, the combined 50 existing metal halide lights will be replaced with high bay LED fixtures. These improvements coincide well with other upgrades at these facilities that the Parks department is initiating.

Pros:

- Installation of energy efficient lighting in two facilities will generate an estimated \$7,500 in annual avoided electrical costs
- Leverages \$30,000 of utility incentives to finance a capital improvement project
- This activity will result in 44 tons of avoided carbon dioxide annually

Con:

- None foreseen

The City's share of these improvements would be paid out of the General Fund, from the Sustainability Division's contracted services budget. The budget amendment will appropriate \$48,500 in LED streetlight savings which have been held in General Fund assigned fund balance.

City staff recommends City Council adopt a budget amendment to purchase and install energy efficient lighting at Shiloh and Stephens Lee centers.

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K. RESOLUTION NO. 14-217 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE BUDD GROUP INC. FOR THE U.S. CELLULAR CENTER'S CUSTODIAL SERVICES CONTRACT

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with The Budd Group Inc. for custodial services at the U.S. Cellular Center.

Historically the U.S. Cellular Center (USCC) has utilized temporary staffing companies to assist City staff with custodial needs at the venue; before, during and after events. The group that has been used at the venue in recent years has proven time and again to lack the experience and ability to deliver the service level needed and expected, especially with the higher standards expected after the completion of renovation of the venue. Staff advertised a Request for Proposals for full scale custodial services, with a goal of finding a company that provides more than simply temporary staffing to work events. Staff requested a custodial services company which would handle day to day operation and event coverage at the USCC. Innovative use of technology for efficiency purposes plans to use more 'green' cleaning products, and an hourly wage paid to part time staff closer to the current living wage at \$10.00/hr were some of the primary RFP considerations. The previous temporary staffing company paid staff minimum wage. Four companies attended the mandatory site visit held at the USCC in May. The Budd Group Inc was selected due to their proven experience in venues hosting live events, their commitment to work in a more sustainable fashion with green certified products, to utilize program based work

order systems, as well as their voluntary commitment to pay closer to living wages to their staff. The Budd Group Inc. has a proven history of professionalism and effective services delivered.

The contract has a one (1) year term with a base cost of \$83,059.20 annually plus additional part time staff hours during events billed at a set hourly rate (estimated to total approximately \$70,000 annually based on past history of staffing levels). Full contract amount is not to exceed \$160,000 annually with two (2), one (1) year options to renew at a base and hourly rate that will not exceed a 3% increase.

The terms of this contract were discussed at the Civic Center Commission meeting on August 5, 2014, and the Civic Center Commission supported staff's recommendation to enter into a contract with The Budd Group Inc.

Pros:

- Creation of one (1) full time benefitted position and one (1) part time benefitted position in the private sector.
- Improved custodial service with a proven professional company contractually obligated to keep our facility clean and presentable on a daily basis.
- Enables current staff to dedicate significantly greater amounts of time to building upkeep and preservation

Con:

- Elimination of (1) vacant maintenance laborer position.

The cost for this contract was included in the FY2014-15 adopted U.S. Cellular Center budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with The Budd Group inc. for custodial services at the U.S. Cellular Center.

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L. RESOLUTION NO. 14-218 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE ON OCTOBER 4, 2014

RESOLUTION NO. 14-219 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST ON OCTOBER 11, 2014

RESOLUTION NO. 14-220 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY MARKET ON OCTOBER 18 AND 25, 2014

RESOLUTION NO. 14-221 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BROTHER WOLF NEW YEAR'S RESOLUTION RUN ON JANUARY 1, 2015

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Blue Ridge Pride on October 4, 2014; Asheville Oktoberfest on October 11, 2014; Asheville City Market on October 18 & 25, 2014; and Brother Wolf New Year's Resolution Run on January 1, 2015.

- Blue Ridge Pride has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 4, 2014, from 12:00 p.m. – 6:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Asheville Oktoberfest and allow for consumption at this event.

Asheville Oktoberfest will be held on Saturday, October 11, 2014, from 1:00 p.m. – 6:00 p.m. on Banks Avenue between Collier Avenue and Coxe Avenue and on Coxe Avenue between Hilliard Avenue and the intersection of Buxton Avenue, as per the event area limits referenced on the accompanying site map.

- Appalachian Sustainable Agriculture Project has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine on two occasions of the Asheville City Market and allow for consumption at those occasions.

Asheville City Market occasions with the sale of beer and/or unfortified wine will be held on Saturday, October 18 and Saturday, October 25, 2014, from 8:00 p.m. – 1:00 p.m. at the city-owned parking lot located at 161 S. Charlotte Street as per the event area limits referenced on the accompanying site map.

- Brother Wolf has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Brother Wolf New Year’s Resolution Run and allow for consumption at this event.

Brother Wolf New Year’s Resolution Run will be held on Thursday, January 1, 2015, from 10:30 a.m. – 1:30 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Blue Ridge Pride, Asheville Downtown Association, Appalachian Sustainable Agriculture Project, and Brother Wolf

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at at Blue Ridge Pride on October 4, 2014; Asheville Oktoberfest on October 11, 2014; Asheville City Market on October 18 & 25, 2014; and Brother Wolf New Year’s Resolution Run on January 1, 2015.

RESOLUTION NO. 14-218 - RESOLUTION BOOK NO. 36 - PAGE 358
RESOLUTION NO. 14-219 - RESOLUTION BOOK NO. 36 - PAGE 361
RESOLUTION NO. 14-220 - RESOLUTION BOOK NO. 36 - PAGE 364
RESOLUTION NO. 14-221 - RESOLUTION BOOK NO. 36 - PAGE 367

M.1. RESOLUTION NO. 14-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH SMART ELECTRIC COMPANY FOR THE NORTH FORK WATER TREATMENT PLANT DAM ELECTRICAL IMPROVEMENTS PROJECT

ORDINANCE NO. 4348 - BUDGET AMENDMENT FOR THE NORTH FORK WATER TREATMENT PLANT DAM ELECTRICAL IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a construction agreement with Smart Electric Company, for the bid amount of \$318,379, with a contingency amount of \$47,757.00 for a total project budget in the amount of \$366,136; and (2) a budget amendment in the amount of \$216,436.00 from the completed Automated Meter Reading Capital Project for the North Fork Water Treatment Plant Dam Electrical Improvements Project.

The North Fork Water Treatment Plant Dam Electrical Improvements Project (Project) consists of all materials, labor, incidentals, and equipment necessary for the replacement of the main electrical switchgear and associated electrical system improvements at the North Fork Water Treatment Plant in Black Mountain, North Carolina. If a power failure occurs at the main water treatment plant, a reliable backup power source is needed to continue the treatment and distribution of potable water into the system. The existing system, installed in 1992, has become unreliable, reached the end of its useful life, and is in need of replacement.

In response to an Advertisement for Bids for the construction project on July 9, 2014, the Water Resources Department (WRD) received one bid. Pursuant to N.C.G.S. § 143-132, three competitive bids are required for formal construction projects. Upon rebidding the project on August 18, 2014, the WRD received two bids in response to the second advertisement. Pursuant to N.C.G.S. § 143-132, the WRD is allowed to award the contract to the lowest responsible bidder even though only two bids were received in response to the second advertisement. Companies responding were:

1. Haynes Electric Construction Company – Asheville, NC
2. Smart Electric Company – Connelly Springs, NC

Following a review of bids by City staff and the project engineers, McGill Associates, Smart Electric Company was selected as the lowest responsible, responsive bidder for the bid amount of \$318,379. A contingency amount of \$47,757 has been added for a total project budget in the amount of \$366,136.

Pros:

- This project will replace outdated, unreliable electrical equipment to ensure a backup power source for the North Fork Water Treatment Plant.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of this project, which would prevent operation of the department's main water treatment plant during an emergency power outage.

The Water Resources Department currently has \$149,700 budgeted for the construction contract. The remaining funds of \$216,436 needed for the contract will be transferred from the Water Resources Automated Meter Reading (AMR) Capital Project, which was completed under budget. In order to transfer funds from the AMR Project, a budget amendment is necessary.

Amount in NF WTP Electrical Project for Construction Contract	\$149,700.00
<u>Additional Amount Needed for Construction Contract</u>	<u>\$216,436.00</u>
Total Amount Needed for Contract, including contingency	\$366,136.00

The amount remaining in the AMR Project will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a construction agreement with Smart Electric Company, for the bid amount of \$318,379, with a contingency amount of \$47,757.00 for a total project budget in the amount of \$366,136; and (2) a budget amendment in the amount of \$216,436.00 from the completed Automated Meter Reading Capital Project for the North Fork Water Treatment Plant Dam Electrical Improvements Project.

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**N. RESOLUTION NO. 14-223 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO A CONTRACT WITH B ALLEN CONSTRUCTION
INC. FOR CONSTRUCTION OF PAVILION AND RESTROOMS AT WNC
NATURE CENTER**

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to design and construct the restroom and pavilion at the WNC Nature Center for an amount not to exceed \$132,900.

In February 2009, City Council approved the Parks, Recreation, Cultural Arts and Greenways Master Plan which recommends the development of a master site plan for future development of the WNC Nature Center. In 2011, the city completed the 2020 Vision Master Site Plan that directs future improvements at the WNC Nature Center.

Based upon the 2020 Vision Master Site Plan, a new playground was constructed in 2013 as part of the enhancements to the red wolf exhibit, and a new boardwalk and trail. The 2020 Vision Master Site Plan prioritizes the importance to continue to enhance the playground area with the design and construction of a restroom and picnic pavilion.

In response to a Request for Qualifications to seek qualified, professional firms to perform the design and construction of the restroom and pavilion, three applications were received. Following a thorough review and evaluation by staff, B. Allen Construction, Inc., located at 340 Wiggins Road, Candler, North Carolina, is recommended as the most qualified, responsive and responsible applicant to design and construct the project.

The project is fully funded by a donation from the Friends of the WNC Nature Center, and allocations from the State of North Carolina Department of Commerce.

Pros:

- The project adheres to the WNC Nature Center 2020 Vision Master Site Plan
- The project will enhance the visitor experience and performance through increased level of service
- Improves public health and safety through increase recreation opportunities and amenities
- Provides investment in community infrastructure
- The project is fully funded with non-General Fund sources

Con:

- None

The project is fully funded with non-General Fund sources. The \$132,900 to support the design and construction contract for the restroom and picnic pavilion is funded by a \$28,170

donation from the Friends of the WNC Nature Center, \$32,330 balance of previous year allocation from the North Carolina Department of Commerce, and \$72,400 FY15 allocation from the North Carolina Department of Commerce.

Staff recommends the adoption of resolution authorizing the City Manager to enter into a contract for design and construction services relative to the design and construction of the restroom and pavilion at the WNC Nature Center with B. Allen Construction, Inc. for an amount not to exceed \$132,900; and authorization to approve change orders to the contract which may arise during the design and construction of the project up to the budgeted amount.

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O. ORDINANCE NO. 4349 - ORDINANCE TO AUTHORIZE THE USE OF THIRD PARTY PROPRIETARY SOFTWARE FOR FIRE PROTECTION SYSTEMS DATA

RESOLUTION NO. 14-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BRYCER, LLC, FOR A THIRD PARTY REPORTING SYSTEM FOR FIRE PROTECTION SYSTEMS DATA

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Brycer, LLC, to utilize third party proprietary software to track and manage commercial fire system inspection, maintenance, and testing requirements; and (2) an ordinance to authorize the use of third party proprietary software in the third party reporting system process for fire protection systems data.

The Asheville Fire Department relies on third party monthly, quarterly, semi-annual, and annual inspection reporting from third party agencies to ensure all fire suppression, fire detection and other life safety systems installed in commercial establishments are up to date and functioning correctly. The reliability of all systems proves essential for proper life safety needs and property conservation requirements, which in essence assists with maintaining a healthy tax base. The proper operation of all fire related systems also helps cut down on false alarms and the need for costly "fire watch" conditions in businesses. Unfortunately, due to the state mandated inspection frequencies, the Fire Marshal's division may only visit a facility once every three years (or at most, annually) to review and confirm requirements are being met. History proves that many businesses fail to comply with third party inspection mandates and only comply after a fire inspection notes the deficiency.

Brycer, LLC and their proprietary "Compliance Engine" software desires to provide a service to all commercial occupancies in the City of Asheville to collect, organize and store all code-required third party inspection and testing records. This item and the amendment to the City's Ordinance are being proposed to authorize the use of third party proprietary software in this process.

This proposal was heard before the City of Asheville Public Safety Committee on August 25, 2014, and was recommended unanimously for approval.

Pros:

- The Compliance Engine automates the delivery of third party inspection and testing reports for fire and life safety systems.
- The City can access the database anytime to review and respond to inspection requirements.
- It provides the City a more comprehensive and accurate reporting system.
- Other municipalities in North Carolina are using the same system.

- This is a proprietary solution, similar to using the Knox Company for our premise key control system, provided at no cost to the city.
- The inspected premise will not be billed nor are they responsible for submitting the reports via the Compliance Engine; their inspecting contractors will submit the required documents and pay the fees.

Cons:

- There will be a minimal charge from the vendor to the affected inspecting contractor of \$10.00 annually per each fire system reported on; however, monthly, quarterly and semi-annual reporting within the same service year will not incur additional fees. The fire dept. will review their fee schedule to make this a neutral impact on affected businesses.

There is no budget impact for the City.

Staff recommends that the Asheville City Council to adopt (1) a resolution authorizing the City Manager to enter into an agreement with Brycer, LLC, to utilize third party proprietary software to track and manage commercial fire system inspection, maintenance, and testing requirements; and (2) an ordinance to authorize the use of third party proprietary software in the third party reporting system process for fire protection systems data.

**ORDINANCE BOOK NO. 29 - PAGE 242
RESOLUTION BOOK NO. 36 - PAGE 373**

**P. RESOLUTION NO. 14-225 - RESOLUTION AUTHORIZING THE CITY
MANAGER TO ENTER INTO A CONTRACT AND SPONSORSHIP
AGREEMENT WITH PEPSI-COLA BOTTLING COMPANY OF HICKORY FOR
THE U.S. CELLULAR CENTER**

**ORDINANCE NO. 4350 - BUDGET AMENDMENT FOR ONE-TIME SIGNING
BONUS**

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract and sponsorship agreement with Pepsi-Cola Bottling Company of Hickory, NC; and (2) a budget amendment in the amount of \$65,000 from the Pepsi sponsorship one-time signing bonus for digital menu boards at venue concession stands.

After completing a bid process for non-alcoholic beverage pouring rights and sponsorship at the U.S. Cellular Center staff has come to agreement with the winning bidder (Pepsi-Cola) on sponsorship deal points and product pricing within a four (4) year contract/sponsorship agreement with two (2), one (1) year mutually agreeable extension options. Pepsi has agreed to provide product at pricing rates which are lower than staff is currently purchasing at. Pepsi has also agreed to provide a \$65,000 one-time signing bonus provided to the U.S. Cellular Center exclusively to be used for the purchase, installation and maintenance of digital menu boards at venue concession stands. Comparable venues throughout the country have seen a 10-20% increase in sales at concession stands after the installation of digital menu boards in their facilities. Pepsi will continue to provide and maintain all necessary equipment needed for the distribution of product as well as an annual sponsorship fee of \$5,000.

Pros:

- Signing bonus of \$65,000 for use of purchase, installation and maintenance of digital menu boards.
- Annual sponsorship fee of \$5,000
- Exceptional service and assistance for staff at major events
- Free to the City equipment and maintenance related to the sale of Pepsi-Cola products

Con:

- None

The FY 2014-15 U.S. Cellular Center budget is being amended by \$65,000 to account for the revenue from the one-time signing bonus, which will provide funding for the purchase, installation and maintenance of digital menu boards at venue concession stands.

City staff recommends City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract and sponsorship agreement with Pepsi-Cola Bottling Company of Hickory, NC; and 2) a budget amendment in the amount of \$65,000 from the Pepsi sponsorship one-time signing bonus for digital menu boards at venue concession stands.

**RESOLUTION BOOK NO. 36 - PAGE 374
ORDINANCE BOOK NO. 29 - PAGE 244**

**Q. RESOLUTION NO. 14-226 - RESOLUTION OF INTENT TO PERMANENTLY
CLOSE AN UNNAMED ALLEY OFF OF BROAD STREET AND SETTING THE
PUBLIC HEARING FOR OCTOBER 28, 2014**

Summary: The consideration of a resolution of intent to permanently close an unnamed alley off of Broad Street and setting a public hearing for October 28, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Jim Hitt at 137 Broad Street and 9999 Broad Street also known as 133 Broad Street, have requested the City of Asheville to permanently close an unnamed alley off of Broad Street. One adjacent property owner has not joined the request to permanently close the alley off of Broad Street. A copy of this resolution of intent shall be sent by registered or certified mail to all owners of property adjoining this alley, not joining in the petition to close. Additionally, a copy of this resolution shall be published once a week for four (4) consecutive weeks prior to a hearing on this matter, and a notice of the closing and public hearing shall be prominently posted in at least two (2) places along the alley.

The Multimodal Transportation Commission met on August 27, 2014, and approved the closure of the unnamed alley off of Broad Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley off of Broad Street and set a public hearing on October 28, 2014.

RESOLUTION BOOK NO. 36 - PAGE 375

R. RESOLUTION NO. 14-227 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF BRADLEY STREET AND SETTING A PUBLIC HEARING FOR OCTOBER 28, 2014

Summary: The consideration of a resolution of intent to permanently close a portion of Bradley Street and setting a public hearing on October 28, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Sandra Alexander of 8 Moore Avenue Megan and John Griffin of 430 State Street, Jay Fiano – multiple properties adjacent to the closure area, Aaron Marmaret and B. J. Harden Jones of 147 Bradley Street, have requested the City of Asheville to permanently close a portion of Bradley Street. A copy of this resolution of intent shall be sent by registered or certified mail to all owners of property adjoining this alley, not joining in the petition to close. Additionally, a copy of this resolution shall be published once a week for four (4) consecutive weeks prior to a hearing on this matter and a notice of the closing and public hearing shall be prominently posted in at least two (2) places along the alley.

The Multimodal Transportation Commission met on August 27, 2014, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Bradley Street and set a public hearing on October 28, 2014.

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S. RESOLUTION NO. 14-228 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE US DEPT OF JUSTICE THROUGH THE 2014 BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION

ORDINANCE NO. 4351 - BUDGET AMENDMENT FOR THE 2014 BYRNE JUSTICE ASSISTANCE GRANT -LOCAL SOLICITATION

Summary: The consideration of (1) a resolution authorizing the City to apply for an enter into an agreement with the US Dept. of Justice through the 2014 Byrne Justice Assistance Grant – Local Solicitation; and (2) the accompanying budget amendment in the amount of \$56,677.

The Asheville Police Department requests authorization to apply for the Byrne JAG – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. If approved the Asheville Police Department and Buncombe County Sheriff's Department will be allocated \$56,677 based on the award matrix, with Asheville receiving \$42,143 and Buncombe County receiving \$14,534. The distribution of funds is approved through a signed MOU.

APD plans to purchase in-car video systems to place in patrol cars. These recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases. However, these recordings could also be used to aid in resolving allegations of wrongdoing by officers. This would allow for an even greater level of protection of officers and citizens. The digital cameras provide high quality and high resolution video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers. Recordings captured with these cameras could potentially aid in mitigating potential civil liability for the City of Asheville by illustrating in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system create a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Department plans to purchase thermal imaging equipment. This thermal technology is useful during night time applications when trying to locate a suspect or an endangered person. This equipment could be used in a variety of ways to save lives and apprehend suspects, while helping protect the officers engaged in the pursuit.

There will be an expense of \$42,143 by the APD for the in-car video systems. The Buncombe County Sheriff's Department will expend \$14,534 for the purchase of thermal imaging equipment. This accounts for the total allocation of \$56,677 for this Grant.

This is a 100% funded non-local match grant that will enable the APD to greatly enhance documentation of patrol related activities such as vehicle stops, pursuits, etc. The video evidence will prove to be very valuable in court for both civil and criminal offenses. Additionally, such evidence will be valuable to for internal investigations into officer actions and encounters. This will enhance accountability for officer actions and increase officer and public safety.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.

Cons:

- Additional burden on the electronic secure storage capacity for storage of the videos
- Maintenance and replacement costs for the camera equipment which has an expected average service life of five years

There is a minimal fiscal impact at this time for City Council to approve the resolution authorizing the City to apply for the grant. If the grant is awarded, there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets. Additionally, funding will be needed to provide additional secure server/storage space to maintain the evidentiary video.

City staff recommends City Council adopt (1) a resolution authorizing the City to apply for an enter into an agreement with the US Dept. of Justice through the 2014 Byrne Justice Assistance Grant – Local Solicitation; and (2) the accompanying budget amendment in the amount of \$56,677.

In response to Ms. Judy Strong, City Manager Jackson said that the Police Department's Strategic Operating Plan calls for both body cameras and vehicle cameras.

**RESOLUTION BOOK NO. 36 - PAGE 381
ORDINANCE BOOK NO. 29 - PAGE 246**

**T. RESOLUTION NO. 14-214 - RESOLUTION APPROVING CO-SPONSORSHIP
OF THE AFFORDABLE CARE ACT OPEN ENROLLMENT KICK-OFF
SPEARHEADED BY PISGAH LEGAL SERVICES**

Pisgah Legal Services has met the current criteria for city sponsorship, representing a public purpose for the Affordable Care Act Open Enrollment Event on November 15, 2014.

The Affordable Care Act Open Enrollment Kick-off, spearheaded by Pisgah Legal Services, on November 15, 2014, is approved as a city sponsored event and waiving of fees for placement of advertisements in City ART Buses.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SIX-MONTH UPDATE OF GOVERNANCE COMMITTEE

Mayor Manheimer said that the Governance Committee was established by motion on December 10, 2013, as a policy review and discussion arm of the City Council. The Committee was set up to provide an opportunity to explore implications of policy alternatives and the policy development process while serving in an advisory capacity to Council as a whole. During the past six months the Governance Committee has reviewed policy matters referred to them and informed City Council on the existing city programs and issues including the following:

- Developed the City Council's legislative agenda for approval by all of Council prior to the General Assembly's 2014 short session.
- Reviewed and recommended full Council approval of the 2014-2015 City Council Strategic Plan. Strategic Operating Plan was approved by all of Council on April 22, 2014.
- Initiated and reviewing progress for a City Satisfaction Survey to coincide with strategic communications plan.
- Developed plan for April 29 Neighborhood Meeting held at Koontz Intermediate School on Tuesday, April 29 at 6:30 pm. The agenda focused on City Council's 2014-15 Strategic Operating Plan.
- Initiated staff review of Council Boards and Commissions and approved plan for additional improved strategic alignment and trainings.

Mayor Manheimer said that this initial 6-months has been a learning process of the functions of the Governance Committee. After meeting with Councilwoman Wisler and going through a list of things that worked well and what hadn't, she felt it would be appropriate for the Governance Committee to discuss it's role to determine if it needs tweaking or move to a different concept altogether.

Mayor Manheimer noted that she will be delivering the State of the City address on October 1 at the U.S. Cellular Center and invited the public to attend.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING 21 JEFFERSON DRIVE FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4352 - ORDINANCE REZONING 21 JEFFERSON DRIVE FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

Urban Planner Blake Esselsytyn said that this is the consideration of an ordinance to rezone 21 Jefferson Drive from Institutional District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on September 12 and 19, 2014.

Mr. Esselstyn said that the site sits on the west side of Jefferson Drive, about sixty yards south of West Haywood Street, in the West End/Clingman Avenue Neighborhood. The area proposed for rezoning consists of the northern portion (roughly 0.12 acres) of a parcel with a total area of roughly 0.3 acres. The southern portion of the parcel includes a single-family house built in 1905, but the northern portion, which is the subject area, is currently vacant, save some fencing and trees/shrubs. The lot slopes fairly steeply from the rear property line down to the frontage on Jefferson Avenue. A stormwater pipe crosses through the northwest portion of the subject area, presenting an obstacle to development. The subject area is currently zoned INST, while the southern part of the parcel is zoned RM-8.

The applicant (Lee and Rebecca Lance) is proposing a standard rezoning of the subject area from INST to RM-8 to be consistent with the remainder of the parcel. The applicant purchased the subject area from the City of Asheville in May of this year, and a recombination plat recorded in February had indicated that the purchased area would be combined with the house lot. Further, the purchase agreement stipulated that the applicant would pursue this rezoning petition.

At their September 3, 2014, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

The area to the north and west of the subject site is all part of the City of Asheville Transit Maintenance facility, zoned Institutional. To the south and east, Jefferson Drive is residentially developed, mostly with single-family homes, with RM-8 zoning directly to the south and east of the subject area, and some RM-16 zoning to the southeast. The proposed rezoning would simply move the dividing boundary between INST and RM-8 some 55 feet north and 90 feet east. Staff feels any uses allowed in the subject area would be appropriate and compatible with the vicinity under the proposed rezoning.

Often in the past, practice has been to assign Institutional zoning to large parcels of publicly-owned land, such as the City's property to the north and west. But, as has been discussed with recent zoning actions (e.g. near Caledonia Road, and the UNC-Asheville campus), the appropriateness of such zoning can be questioned when and if ownership shifts to the private sector. By carving off this portion of land south and east of the stormwater pipe and conveying it to a property owner on Jefferson drive, the City and the applicant have created a small tract that now relates more to Jefferson Drive and the context of the detached residences than to the government-operated large parcel on the hill above which is accessed from West Haywood Street.

One of the principles most commonly invoked in the *Asheville City Development Plan 2025* (and other adopted plans) is compatibility; indeed, the words compatible and compatibility appear more than 40 times in the document. One example would be on page 31, under the Smart Growth Land Use Policies: "City staff is directed to [...] use existing zoning tools to promote compatible land use projects." As noted above, staff's assessment is that any of the uses

permitted in RM-8 would be compatible in this specific location; however, many of the uses permitted in Institutional zoning would not.

The *Plan* also states that "Protection, preservation, and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction." While some may view such a downzoning as a reduction of development potential, staff feels that if this modest map amendment can offer an opportunity to adapt and enhance a distinctive century-old house on the block or add a compatible home next door, the benefit to this block, and hence the neighborhood, must be recognized.

Owing to the small extent of the proposed modification (less than one-eighth of an acre), the proposed rezoning can be said to neither support nor hinder the goals of the *Strategic Operating Plan*.

While not identified in either of the plans mentioned above, accepted zoning practice is to favor zoning district boundaries placed so as to follow property lines, and to avoid "split-zoning" of properties when possible. The proposed change would remedy such a split-zoning.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Amending the zoning map would resolve a split-zoned situation.
- The proposed zoning would promote compatibility along Jefferson Drive, as encouraged in the *2025 Plan*.
- Preservation and enhancement of an existing neighborhood, a principle espoused in the *2025 Plan*, would be incrementally bolstered by the proposed change.
- If approved, the rezoning would result in a decrease in allowed residential density for this small area, reducing the capacity from two units to one.

Staff recommends approval of the proposed rezoning, finding that the shift in the zoning district boundary is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 5:18 p.m., and when no one spoke, she closed the public hearing at 5:18 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the zoning map amendment of 21 Jefferson Drive from Institutional District to RM-8 Residential Multi-Family Medium Density District as a standard rezoning and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the compatibility of uses and development standards would be improved compared to the existing zoning designation; (2) the preservation of the established immediate neighborhood of residences would be encouraged. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS:

A. GRAFFITI UPDATE AND DIRECTION ON NEXT PHASE OF PROJECT

Public Works Director Greg Shuler said that staff is requesting guidance from Council on how to best proceed with the Graffiti Removal Initiative.

On April 22, 2014, City Council approved Ordinance 4306. This ordinance allowed the City to remove graffiti from private property with execution of an approved waiver signed by the property owner. Prior to approval, staff presented Council with a three step process that would aid in the long term removal of graffiti in Asheville.

The first step was to impose escalating civil penalties on perpetrators. This initiative has been enacted, and application will occur as violations are enforced.

The second step included a 90 day period that would have the City pay to remove up to \$500 per site, per occurrence to remove graffiti from private property. That period began on July 1, 2014, and is scheduled to end on October 1, 2014. At this time, a small percentage of the allocated funds have been used. Despite a concentrated media effort that included distribution of brochures, presentations at community groups and commissions, social media, radio, television, print and a dedicated hot line for citizens to call, many still claim to be unaware of this initiative.

As of today, the clean-up initiative has funded graffiti removal of over 141 incidents, using 14% or \$41,700 of the allotted \$300,000.

As we near the end of the 90 day period, more property owners are becoming aware of the opportunity, and our participation has increased each month. The presentation that accompanies this staff report offers different alternatives to improve participation in the program.

The alternatives are varied in nature, including the following options:

- Alternate #1 Keep the program as is
- Alternate #2 No max full clean up
- Alternate #3 Percentage split
- Alternate #4 Bracket split

- Alternate #1 Keep the program as is.

This would have the City assisted clean up cease on October 1, 2014. Property owners would then be required to remove the graffiti within 7 business days.

Another variation of this option would be to simply extend the initiative to allow additional time to reach more citizens. This could be for an additional 90 days, the remainder of the fiscal year, or until the funds are gone.

Why was this alternate recommended?

This was the original plan. It gave willing citizens an opportunity to receive City assistance to remove graffiti from their property, yet required minimal accountability from the property owner, if the costs exceeded \$500. With the trends of greater participation each month, it may warrant extending the program to achieve a higher success rate.

- Alternate #2 No max full clean up

The goal of this alternative would be to do a short duration effort to remove all graffiti from willing owners at no cost to them. Many property owners aren't willing to pay to remove graffiti from their property due to the cost. Most have already paid a great deal of money to repaint/wash their buildings only to have it vandalized again. Many of these large areas have taken a long period of time to complete the tags. If the graffiti were to be removed,

and then monitored, they shouldn't be able to get to such an unruly size again. Presumably, the owners could better deal with a smaller tag.

Why was this alternate recommended?

The goal if this ordinance/initiative was to remove graffiti. This alternative would most likely best accomplish this. The major drawback of this option is the absence of accountability from the property owner. This effort would likely remove the most expansive graffiti areas. Based on dialogue with many of the citizens impacted by graffiti, staff feels like the removal of some of the large and very visible areas would send a clear message of our intent to eradicate graffiti.

- Alternate #3 Percentage Split

This alternate would put much more accountability on property owners, yet reduce the financial responsibilities of those same owners, as well as the City on larger jobs. It could be said that it is a more equitable scenario since it would be an even partnership between the City and the property owner. This option may allow more owners to participate, therefore removing more graffiti.

Why was this alternate recommended?

As mentioned before, our staff has heard repeatedly that owners with large areas vandalized can't afford to pay their share. This isn't nearly as big of a problem with smaller tags. Our staff feels strongly that once some of the larger sites have been cleaned, other folks will be more receptive to participating in the program.

- Alternate #4 Bracket Split

This alternate would set minimum and maximum amounts that each partner would be responsible for, depending on the size of the job. The City would pay a minimum of \$500 on jobs valued at \$1,000 or less. On sites that range from \$1,000 to \$10,000, the owner pays a maximum of \$500, with the City paying the rest. On projects that exceed \$10,000, the owner would pay \$1,000, with the City paying the rest.

Why is this alternate recommended?

As with other alternates, this would allow for opportunities to deal with large sites, yet keep accountability of property owners in play. This alternate may provide a better balance, and produce more incentive for owners to participate. So far, very few sites would exceed the \$10,000 threshold. The ones that do would be pivotal in accomplishing the goals of the program.

Unless otherwise stated, these alternates would require the program to be extended at least an additional 90 days. Other timeframes options would be the remainder of the current fiscal year. In all cases the initiative would end upon all funds being spent.

The third step is the ideal long term goal of the ordinance that would require the property owner to promptly remove any graffiti from their property. This is where we need to end up long term.

Staff is providing an update on the progress of the Graffiti Clean-up Initiative, and requesting guidance on potential changes to the program. As we have progressed with the Clean-up Initiative, it has been discussed that we may be able to eradicate more graffiti if the initiative were revised.

Pros:

- Potential increase in the removal of more graffiti in Asheville.
- A more vibrant, safer feeling community.
- Higher Quality of Life for our citizens

Con:

- City resources utilized on private property

\$300,000 was already included in the FY 2014-15 general fund budget for contracts associated with the City's graffiti removal initiative. The FY 2014-15 adopted budget also includes \$200,000 for administrative costs associated with this program.

The Public Safety Committee reviewed this on September 22 and City Council on September 23. City staff requests that Council consider the alternatives and offer direction on how to proceed with the graffiti removal initiative.

After discussion, Councilman Smith moved to begin notifications on October 1 (per the ordinance) but amend the policy to allow a one-time \$500 City contribution, for properties that did not take advantage of the initiative previously, during the first year of the ordinance or until we hit our cap. This motion was seconded by Councilwoman Wisler.

Because there are between 10-20 larger properties that will cost in the range of \$8-10,000 for clean-up, Vice-Mayor Hunt suggested setting a specific amount aside (\$70,000) to clean up the larger properties, with a maximum of \$10,000 per property and have it expire in 60 days (December 1, 2014).

Councilman Bothwell opposed the program from the beginning, but when staff researched what is effective in other cities, the answer was to fine the property owners for not cleaning it up. He said we have approximately \$300,000 to spend, and felt that money could be better spent on incentivizing affordable housing. He was opposed to spending tax money on private property to paint over somebody's idea of art.

After hearing the discussion, Mr. Shuler recommended the City pay a minimum of \$500 on jobs valued at \$1,000 or less. On sites that range from \$1,000 to \$10,000, the owner pays a maximum of \$500, with the City paying the rest. On projects that exceed \$10,000, the owner would pay \$1,000, with the City paying a maximum of \$10,000 per property up to \$70,000.

Several individuals spoke regarding the issue, some suggesting solutions to remove the graffiti, while others felt the money should be used for other projects.

Regarding the larger properties, it was the consensus of Council to have Mr. Shuler bring back a proposal, and provide Council with information, i.e., their location and why the property owners have chosen not to clean it up, whether it be they feel it is art or they simply cannot afford to clean it up.

The motion made by Councilman Smith and seconded by Councilwoman Wisler carried on a 6-1 vote, with Councilman Bothwell voting "no."

Closed Session

At 6:04 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To

consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a potential lawsuit involving the following party: Robert Frost and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (4) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 6:50 p.m., Vice-Mayor Hunt moved to recess the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting. This motion was seconded by Councilman Smith and carried unanimously.

B. RESOLUTION NO. 14-229 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH PUBLIC INTEREST PROJECTS FOR THE DEVELOPMENT OF WORKFORCE HOUSING AT 56 S. LEXINGTON AVENUE

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing the Mayor to enter into a development agreement between the City of Asheville and Public Interest Projects (PIP) for the development of workforce housing at 56 S. Lexington Avenue.

Included in the November, 2008 development agreement for the 51 Biltmore parking structure was the acknowledgement of a Phase 2 process, in which "PIP intends to design and construct a combination of mixed use and multi-family housing." It was also stated that prior to Phase II, the blank street-side facades of the parking garage would likely need to be mitigated.

The City and PIP knew at that time that development of the parcel under PIP's control would have challenges, especially because of the narrow site (about 30- 35 feet, from sidewalk to the façade of the parking garage), with the need to extend the sidewalk to a ten foot width. The width issue was further exacerbated by the presence of overhead utility lines within that 35 foot width. As PIP explored the issue of development there, they became aware of OSHA regulations that prohibited the construction of the new building within 10 feet of the lines. Development of the site therefore requires that the power lines be buried underground. The cost of this is estimated to be \$250,000.

The City explored in turn the issues of mitigation of the blank façade. A working estimate of \$100,000 was developed for the installation of public art or landscaping at a sufficient scale to address the length of Lexington Street at that location. Any public sector installation would also have concurrent maintenance expenses, which staff estimates at \$50,000 over the ten-year life of the installation.

PIP has determined that it wishes to exercise its intention to build mixed-use and workforce housing on this site. It plans to construct a total of 32 workforce housing units, a mixture of one and two-bedroom units, all of which would be rented at or below the City's workforce housing rental standards. Five of the units would be suitable for live-work occupancy. One commercial space would also be constructed.

In order to achieve workforce rents, PIP needs to adjust both its investment return expectations and seek City assistance in the project. The assistance sought at this time is an agreement with the City to bury the power lines to enable project construction.

The City may provide this assistance via Downtown Development Agreement, pursuant to N.C.G.S. § 160A-458.3. This statute authorizes such an agreement when the City Council finds and determines that the Project is likely to have a significant effect on the continued revitalization of the Central Business District of the City in the form of increasing the property tax base of the City and serving as a catalyst for further development in the downtown area. Staff has determined that the proposed project meets these criteria by increasing the tax base by an estimated \$4- \$5 million. Additional benefits of the project include:

- 32 new workforce housing units;
- Model “locational efficient” housing, in line with the recommendations of the 2011 Center for Neighborhood Technology report;
- It will provide significant employment in its construction.

Pros:

- The project will create 32 units of workforce housing in the most locationally efficient area of the City- its downtown;
- The project will provide significant construction employment;
- The project will increase the City’s taxable property by an estimated \$4 million.

Cons:

- The developer needs to find sufficient equity and financing to construct the project. However, the developer’s track record is strong in this regard.

The estimated cost of the City’s share of this project is \$250,000, which would be sourced from the existing FY 2014-15 EDCIP budget. At an anticipated taxable value of \$4 million, the annual City property tax at current rates would be \$18,400. The City’s investment would conservatively be recouped through taxes alone in 13.5 years. Additionally, the project would result in avoided costs of approximately \$100,000 for the installation and maintenance of the blank-wall façade mitigation project. Taking that into account, the City’s investment would be conservatively recouped through taxes in 8 years.

Staff recommends that Council approve a resolution that would authorize the development and execution of a Downtown Development Agreement between the City of Asheville and Public Interest Projects or their subsidiary for 56 S. Lexington Avenue.

In response to Councilwoman Wisler, Mr. Staudinger said that there is a guarantee that if the project is not built, then PIP will have to repay the City the \$250,000. That provision will be in the development agreement.

In response to Councilman Smith, Mr. Staudinger said that any construction within that corridor is going to require the burying of the power lines.

Councilman Bothwell questioned if the burying of the power lines is new information since the construction of 51 Biltmore Avenue parking deck.

Mr. Pat Whalen, representing PIP, gave a brief track record of his projects in the downtown area, noting that over 23 years, they have built a number of projects in downtown - 5 were apartment buildings. In those 5 downtown buildings they creating 77 apartments, and 95% of those apartments have been, and remain, at the workforce housing rental rates. On this site, they are already losing 15% of the first and second floors because the City wants to increase the width of the sidewalk by 5 feet. With the City burying the power lines, it will allow them to do the workforce housing. He said that all of their rents will be substantially under the 120% of medium. He could not commit, however, to conventional affordable housing.

Mr. Whalen committed to working with the City in tweaking the Land Use Incentive Policy so we can generate more sustainable, workforce, and affordable housing in the community.

Councilman Smith explained the federal term "workforce housing" means that people who are making between 80-120% of the area medium income will spend no more than 30% of their income on housing.

In response to Councilman Smith, Mr. Whalen said that parking spots are not guaranteed.

Mr. Whalen said that not having the lines buried has been the biggest impediment for them moving forward. He thought they could work out the power line issue as they went along, but OSHA requirements say they can't even start construction until the lines are buried.

In response to Vice-Mayor Hunt, Mr. Whalen hoped that they can integrate car-sharing into the project.

When Councilwoman Wisler asked if Mr. Whalen would commit to workforce housing for a certain period of time, Mr. Whalen said that if they don't do workforce housing, they will have to return the \$250,000 to the City per the draft development agreement. He reiterated that of their 77 downtown units, 95% have been workforce housing for a number of years. He would like to come back to Council and work through the Land Use Incentive Policy and at that time he will agree to a term. He asked that Council trust him based on his history.

Councilman Bothwell felt that PIP should have known they couldn't build under a power line. He also felt the City overpaid for the property and could not support the development agreement.

Councilman Pelly recalled that a developer on Sardis Road asked Council to trust him as well when he would not commit to maintaining workforce housing. That developer asked for a continuance and will be back before Council. On this particular project, however, he felt PIP has a terrific track record in serving our City, especially downtown, and he would support the agreement.

Councilman Smith said that the City will have to spend \$250,000 to bury the power lines whether it's for PIP or some other developer. PIP has built in the downtown area has kept the apartments affordable, so he would support the agreement.

Ms. Lauren Baucus was confused on what constitutes workforce housing in Asheville.

Ms. Clare Hanrahan hoped that the terms "affordable housing" and "workforce housing" are defined clearly so that people understand.

Mr. David Nutter hoped that Council would approve the development agreement.

Mr. Jason Humes felt that goals should be accomplished voluntarily without forced aggression or coercion.

Councilman Smith noted that City Council will be holding a worksession on affordable housing/community development on October 14, 2014, at 3:30 p.m. in the First Floor North Conference Room of City Hall.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-229. This motion was seconded by Councilman Pelly and carried on a 6-1 vote, with Councilman Bothwell voting "no."

RESOLUTION BOOK NO. 36 - PAGE 382

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-230 - RESOLUTION AUTHORIZING THE CITY TO APPLY TO THE FEDERAL AVIATION ADMINISTRATION FOR APPROVAL OF A PLAN OF REORGANIZATION REGARDING THE ASHEVILLE REGIONAL AIRPORT, AND TO TRANSFER PROPERTY AND OPERATIONAL RESPONSIBILITY FOR THE AIRPORT TO THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Mayor Manheimer said that this is the consideration of a resolution authorizing the City to: (a) prepare and submit an application to the Federal Aviation Administration (FAA) recognize the Greater Asheville Regional Airport Authority (GARAA) as the operator and sponsor of the Asheville Regional Airport; (b) proceed with the transfer of the Airport property to GARAA; and (c) proceed with the transfer of operational responsibility for the Airport to GARAA.

In the late 1950's and early 1960's, the City of Asheville, with FAA assistance, acquired the property that is now the Asheville Regional Airport. The City operated the Airport as a City department until 1980. In 1980, the Asheville Regional Airport Authority (Authority) was established by interlocal agreement between the City and Buncombe County. Pursuant to that agreement, the City and County gave the Authority broad power to operate the Airport, including the power to hire personnel and improve and lease property. An agency established by interlocal agreement cannot own real property, so the City leased the Airport property to the Authority. The initial terms of the interlocal agreement and the lease were for 30 years. In 2008, the interlocal agreement and the lease were amended and restated, and renewed for an additional 30 years.

Over the years and after the establishment of the Authority, property has been acquired with Authority/FAA funds and titled in the City's name, thereby expanding the lease; some Airport property no longer needed for Airport use has been sold or, as in the case of the WNC Agricultural Center, leased. Each of these conveyances required FAA approval in the form of a release. Most recently, the FAA approved the conveyance in fee of the WNCAC property to the State, and the City is in the process of completing that transaction.

FAA regulations require that public airports be sponsored by a governmental agency that possesses certain powers that are important for purposes of airport operation, like the ability to own property, obtain financing, and exercise the power of eminent domain. Because the Authority did not possess these powers, the City and Buncombe County were (and still are) the co-sponsors of the Airport for FAA purposes. Among other things, the City and County sign all grant assurances when the Airport receives federal funds.

Beginning in about 2007-08, the Authority began exploring the possibility of becoming an independent Authority, with full powers of operation and FAA recognition. This led to the enactment, in 2012, of a local act by the NC General Assembly (SL 2012-121 (technical amendment in sec. 69.1 of SL 2012-194; herein "Airport Law"). The Airport Law established GARAA as a "special purpose" government, and provided for the City and County and the Authority to transfer operational responsibility for the Airport to GARAA, and to transfer ownership of all real and personal property (and any liabilities or obligations) to GARAA. Pursuant to federal law, and as provided in the Airport Law, this reorganization and transfer of property is subject to approval by the FAA.

Following enactment of the Airport Law, discussions involving the City and GARAA (including their legal representatives and consultants), and the FAA, revealed the need for clarifications to the Airport Law. These clarifications were enacted during the 2014 session of the General Assembly (SL 2014-52), and the City and the Authority are now poised to seek the FAA's approval of the plan of reorganization provided in the Airport Law (as amended), and the recognition of GARAA as the sponsor of the Airport. Buncombe County adopted a resolution to this effect in February of 2014.

In addition to approving of the change in sponsorship, the resolution does three things: (1) authorizes the City, through the City Manager, City Attorney, or a designee, to work with GARAA to prepare and submit appropriate documentation to the FAA for approval of the reorganization of the Airport governance structure, as set out in the Airport Law (as amended), and FAA recognition of GARAA as the sponsor of the Airport; (2) authorizes the City to transfer all real and personal property used for Airport purposes (and associated obligations and liabilities) to GARAA, subject to any required FAA approval; and (3) authorizes the City to transfer operational responsibility for the Airport to GARAA. Since the Authority currently operates the Airport, (3) may be technically unnecessary, but would signify to the FAA the City's intent to transfer complete control of the Airport. As a practical matter, the Airport staff will coordinate the approval process with the FAA, but it is important that the City participate actively, and facilitate where possible.

Pros:

- Allows GARAA to operate as an independent authority, and simplifies the governance structure.
- Relieves the City of operational and financial responsibility for the Airport
- Complies with a legislative directive

Cons:

- City loses a degree of influence over the direction of a regional economic asset in that the interlocal agreement will be superseded. However, since 1980, the Authority has set the policy direction for the Airport, and controlled operations. The City will retain two appointments on the GARAA board.
- City relinquishes ownership of property, but property reverts to City if Airport operations cease or if GARAA is dissolved.

[Note: under FAA regulations, property that was acquired for airport purposes must be used for that purpose. Any sale or disposition must be approved by the FAA, and the proceeds from any sale must be used to reimburse the FAA in proportion to its initial contribution (usually 90%) or reinvested at the Airport.]

The transfer of ownership has no direct impact on municipal expenditures and revenues.

Adoption of the resolution is recommended. At this time, it is not recommended that the interlocal agreement establishing the Authority be dissolved, or that the City's lease to the Authority be terminated. When the transition is complete, Council should take appropriate action to wind down the Authority's operations.

When Mr. Warren Furmann asked if the GARAA is a County or State authority, Mayor Manheimer said that it is an independent authority created by the State but recognized by the FAA.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-230. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jimmy Bright, representing the Tarheel Challenge Academy Program, explained the program for at Risk Kids from the ages of 16, 17 and 18 years of age. The program is sponsored by the N. C. National Guard and is a quasi-military program for at-risk high school dropouts. The

mission of the Academy is to redirect the efforts of young adults who have had trouble succeeding in the normal high school environment, and give them the skills and attitude to become productive citizens in their communities. Three thousand, nine hundred and thirty-eight (3,938) proud young men and women have graduated from the program.

Mr. Warren Furmann offered his service to serve on a graffiti oversight committee.

Mr. Jonathan Robert urged the City Council to have Police Chief Anderson stop the video surveillance of public gatherings and destroy the tapes. This activity is counter to the Civil Liberties resolution City Council adopted. If City Council does not accomplish this, he will use the ACLU and file a federal injunction.

Ms. Clare Hanrahan agreed with Mr. Robert and asked City Council not film public gatherings.

Mr. Todd Stimson passed out a brochure regarding Cannabinoids and urged City Council to educate the public about medical use of cannabis for cancer patients.

Mr. Rodney Jones was concerned about the Pritchard Park warden not allowing the public to use the electrical outlets to charge their cell phones or wheelchairs. He also asked that the light above the chess table be replaced.

Ms. Judy Strong spoke about the City's fiscal responsibility and questioned why the Asheville Art Museum lease and the Diana Wortham leases were not signed yet.

Mr. J.J. Hicks urged Council to work towards legalizing cannabis for medical and residential use. Other states are taking away our tourist dollars.

Councilman Bothwell said that he worked hard to get the Civil Liberties resolution adopted by Council. He would work to get the video surveillance at public gatherings stopped and request a process to destroy the video surveillance tapes if they are not being used for a criminal investigation.

At the request of Councilman Smith, City Manager Jackson said that he would work with the City Attorney's Office to provide a recommendation to the Police Department regarding how their policy should align with the Civil Liberties resolution adopted by City Council.

Closed Session Continued

At 8:02 p.m., Councilwoman Wisler moved to continue the closed session. This motion was seconded by Councilman Smith and carried unanimously.

At 8:19 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:19 p.m.

CITY CLERK

MAYOR